



General Assembly

January Session, 2009

Raised Bill No. 1024

LCO No. 3952

03952_____INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

***AN ACT ESTABLISHING A STATE WORKERS' COMPENSATION
INSURANCE PROGRAM.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-284a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) [Notwithstanding the provisions of sections 4a-19 and 4a-20 to
4 the contrary, the Commissioner of Administrative Services shall solicit
5 proposals from any management firm engaged in the business of
6 administering workers' compensation claims, or from any authorized
7 mutual insurance company or stock company or subsidiary thereof
8 writing workers' compensation or employer's liability insurance in this
9 state, for the purposes of administering the workers' compensation
10 claims filed against the state, or of insuring the state's full liability
11 under workers' compensation and administering such claims. The
12 commissioner may, at said commissioner's discretion, reject any or all
13 of such proposals if they are deemed to be inadequate to effectively
14 serve the needs of the state concerning workers' compensation.

15 (b) The Commissioner of Administrative Services shall adopt

16 regulations, in accordance with the provisions of chapter 54, which
17 establish the fees payable by this state for its employees under the
18 provisions of this chapter, based on the medical procedure,
19 combination of procedures or diagnosis of the patient, provided the fee
20 schedule shall not apply to services rendered to a claimant who is
21 participating in the state's managed care plan. The regulations shall
22 limit annual growth in total medical fees payable by the state to no
23 more than the annual percentage increase in the consumer price index
24 for all urban workers. Said commissioner may exclude from
25 participation in the state workers' compensation managed care
26 program any medical provider found, through a systematic program
27 of utilization review, to exceed generally accepted standards of the
28 scope, duration or intensity of services rendered to patients with
29 similar diagnostic characteristics. The state shall not make any
30 payment to a facility owned in whole or in part by the referring
31 practitioner.] As used in this section:

32 (1) "Board" means the State Workers' Compensation Insurance
33 Program Board of Governors established under subsection (j) of this
34 section;

35 (2) "Commissioner" means the Insurance Commissioner;

36 (3) "Program" means the State Workers' Compensation Insurance
37 Program established under subsection (b) of this section;

38 (4) "Residual risk" means an employer who in good faith attempts to
39 purchase workers' compensation insurance but is unable to do so at
40 competitive rates through ordinary means with a qualified insurer and
41 who is not self-insured, and includes any legal entities that may be
42 combined for experience and rating purposes; and

43 (5) "Voluntary risk" means an employer for which the State
44 Workers' Compensation Insurance Program Board of Governors elects
45 to provide workers' compensation insurance or incidental coverage
46 under this section.

47 (b) Notwithstanding the provisions of sections 4a-19 and 4a-20,
48 there is established a State Workers' Compensation Insurance
49 Program, which shall be for all purposes an insurance company subject
50 to the provisions of title 38a except as otherwise provided in this
51 section, to provide and administer workers' compensation insurance
52 against liabilities arising under chapter 568 for the state and such
53 voluntary risks and residual risks as the State Workers' Compensation
54 Insurance Program Board of Governors agrees to insure. The board
55 shall develop statistical and other information as necessary to establish
56 appropriate criteria for the program's voluntary risk market and its
57 residual risk market.

58 (c) On and after July 1, 2009, an employer may apply to the program
59 for workers' compensation insurance coverage, provided such
60 application is made no earlier than thirty days prior to expiration of
61 the applicant's then current workers' compensation insurance policy.
62 The applicant shall apply in good faith, either directly or through an
63 agent licensed by the state, to procure workers' compensation
64 insurance according to rules adopted by the board. The board shall use
65 such application to establish whether the applicant is a residual or
66 voluntary risk. No applicant shall be eligible to secure workers'
67 compensation coverage from the program by canceling its then-current
68 workers' compensation insurance coverage.

69 (d) The board shall consider applications for workers' compensation
70 insurance coverage in accordance with subsection (c) of this section
71 from any employer doing business in this state. If the board
72 determines that (1) the applicant satisfies the conditions and standards
73 established by the board, and (2) the writing of the coverage is
74 consistent with the applicable reserve and surplus requirements and
75 the solvency of the program, the board shall provide such applicant,
76 upon payment of the appropriate premium as established by the
77 program's rates and rules, with workers' compensation insurance. An
78 applicant established by the board to be a residual risk may be
79 required to meet other conditions deemed necessary by the board to

80 protect the program's interests.

81 (e) Nothing in subsection (c) or (d) of this section shall require the
82 board to insure any residual risk if insuring such risk would cause the
83 program to exceed the premium-to-surplus ratios then in effect.

84 (f) The board may deny an application for workers' compensation
85 insurance coverage, refuse to renew coverage or cancel coverage, as
86 appropriate, for any of the following:

87 (1) Nonpayment of any premium for current or prior policies issued
88 by the program to an insured or to another entity the board deems to
89 be a successor in interest of such insured;

90 (2) Failure or refusal by an applicant or insured to fully and
91 accurately disclose to the program information concerning such
92 applicant's or insured's ownership, change of ownership, operations or
93 payroll, including allocation of payroll among state and federal
94 compensation programs, classification of payroll and any other
95 information determined to be necessary by the board to determine
96 appropriate rates; or

97 (3) Failure or refusal by an applicant or insured to comply with the
98 program's safety requirements or to permit premises inspections to the
99 satisfaction of the board.

100 (g) In lieu of nonrenewal or cancellation of coverage under
101 subdivision (1), (2) or (3) of subsection (f) of this section, the board may
102 assess a premium surcharge against an insured to be assessed at a rate
103 determined by the Insurance Commissioner.

104 (h) Any determination by the board with respect to the denial,
105 nonrenewal or cancellation of a workers' compensation insurance
106 policy for a residual risk under this section, except for cancellation for
107 nonpayment of premium, may be appealed to the commissioner in
108 writing, not later than thirty days after notice by the board to the
109 applicant or insured of such action. If the commissioner determines

110 that the board has unreasonably denied, failed to renew or cancelled
111 any insurance policy for a residual risk, the board shall in good faith
112 reconsider issuing, renewing or reinstating such insurance policy. If
113 the board has not issued, renewed or reinstated such insurance policy
114 within thirty days after the commissioner's determination, the
115 applicant or insured may appeal the denial, failure to renew or
116 cancellation by the program to the superior court for the judicial
117 district of Hartford.

118 (i) (1) The program shall be subject to rate regulation under chapter
119 701.

120 (2) Notwithstanding any other provision of the general statutes, the
121 board may file rates for workers' compensation insurance coverage
122 with the commissioner and use such rates ninety days after such filing,
123 subject to refund if and to the extent any rate increase requested in
124 such filing is disapproved or modified by the commissioner. When a
125 filing is not accompanied by the information upon which the program
126 supports the filing and the commissioner lacks sufficient information
127 to determine whether the filing meets the requirements of applicable
128 law, the commissioner may require the program to furnish the
129 information upon which the program supports the filing. The
130 information furnished in support of a filing may include (A) the
131 experience or judgment of the board, (B) the board's interpretation of
132 any statistical data the board relies upon, (C) the experience of other
133 insurers or rating organizations, or (D) any other relevant factors. The
134 board shall not file and use any rates that would increase workers'
135 compensation insurance rates in excess of an average of twenty-five
136 per cent annually of the program's then-effective workers'
137 compensation insurance rates without prior approval of the
138 commissioner.

139 (3) Notwithstanding any other provision of the general statutes, the
140 board and any insured residual risk may mutually consent to modify
141 the rates for such insured's policy, provided the board files notice of

142 the agreed-upon rate with the commissioner.

143 (4) If, after review by the commissioner during the ninety-day
144 period provided in subdivision (2) of this subsection, a residual risk
145 workers' compensation insurance rate filed by the board is determined
146 to be unjust, unreasonable, inadequate, excessive or unfairly
147 discriminatory by the commissioner, the commissioner may
148 disapprove or modify, in whole or in part, such rate. Any such review
149 and decision by the commissioner shall be subject to the provisions of
150 section 38a-9.

151 (5) Notwithstanding any other provision of the general statutes, the
152 board may establish and apply multitiered premium and surcharge
153 systems. Such multitiered premium and surcharge systems shall be
154 subject to the file and use procedures provided in subdivision (2) of
155 this subsection. Such systems shall provide for higher premium and
156 surcharge payments by insureds who present higher than normal risks
157 within a class, and shall include periodic assessment of a premium
158 surcharge of up to three times the program's otherwise applicable
159 premium rate, as the board deems appropriate, to further the purposes
160 of the program. Such surcharge shall be payable upon assessment,
161 over the policy year or upon renewal, at the option of the board. Any
162 premium surcharge assessed by the board may be appealed to the
163 commissioner not later than twenty days after notice by the board to
164 the insured of the imposition of the surcharge. The commissioner may
165 modify or rescind such surcharge if the commissioner determines that
166 the surcharge is unjust, unreasonable, inadequate, excessive or unfairly
167 discriminatory.

168 (6) Notwithstanding any other provision of the general statutes, on
169 and after July 1, 2009, the board may commence issuing residual risk
170 workers' compensation insurance policies at an initial rate not in excess
171 of the rates then in effect for residual risk workers' compensation
172 insurance coverage offered by any other insurers in the state. The
173 board may apply discounts and surcharge multipliers of up to three

174 times the premiums that would otherwise be applicable under such
175 rates, with such premium surcharges to be payable as provided in
176 subdivision (5) of this subsection. The board may continue to issue
177 residual risk workers' compensation insurance coverage at such initial
178 rates until the effective date of any revised rates filed and approved
179 pursuant to regulations adopted by the commissioner.

180 (j) There is established a State Compensation Insurance Program
181 Board of Governors consisting of eleven members as follows:

182 (1) The chairman of the Workers' Compensation Commission;

183 (2) The Insurance Commissioner;

184 (3) The Commissioner of Administrative Services;

185 (4) One representative of a labor organization appointed by the
186 Governor;

187 (5) One representative from the insurance industry appointed by the
188 Governor;

189 (6) Two representatives from the general public appointed by the
190 Governor;

191 (7) The Senate chairperson of the joint standing committee of the
192 General Assembly having cognizance of matters relating to labor, or
193 the chairperson's designee;

194 (8) The House of Representatives chairperson of the joint standing
195 committee of the General Assembly having cognizance of matters
196 relating to labor, or the chairperson's designee;

197 (9) The Labor Commissioner; and

198 (10) The chief executive officer of the State Workers' Compensation
199 Insurance Program.

200 (k) (1) Any vacancy shall be filled by the appointing authority.

201 (2) The board shall advise the Governor and the General Assembly,
202 on a quarterly basis, on the administration of the program.

203 (3) The board shall employ a chief executive officer not later than
204 September 1, 2009. Said chief executive officer shall have oversight of
205 the daily activities of the program and may employ staff to carry out
206 the duties and requirements of the board set forth in this section.

207 (4) The board and the chief executive officer may enter into such
208 contractual agreements as may be necessary, in accordance with
209 established procedures, for the discharge of their duties.

210 (l) (1) There is established a separate, nonlapsing account to be
211 known as the "workers' compensation insurance account" within the
212 Workers' Compensation Fund. The account shall contain any moneys
213 required by law to be deposited in the account.

214 (2) Moneys in the account shall be expended by the board for the
215 purposes of (A) contracting with a management firm engaged in the
216 business of administering workers' compensation claims to administer
217 such claims during the transition period, (B) paying workers'
218 compensation liabilities arising under chapter 568 during the transition
219 period, and (C) administering and paying workers' compensation
220 liabilities arising under chapter 568 on or after October 1, 2009, for
221 voluntary risk and residual risk insureds. For the purposes of this
222 subdivision, "transition period" means the period from July 1, 2009, to
223 September 30, 2009.

224 (3) All premiums paid by voluntary risks and residual risks
225 pursuant to this section shall be deposited in the account established in
226 subdivision (1) of this subsection, for the payment of workers'
227 compensation liabilities arising under chapter 568 for such voluntary
228 risks and residual risks.

229 [(c)] (m) Notwithstanding the provisions of sections 4a-19 and 4a-20,

230 the state shall procure workers' compensation insurance from the
 231 program. The Commissioner of Administrative Services shall have sole
 232 responsibility for establishing procedures for all executive branch
 233 agencies participating in the state of Connecticut workers'
 234 compensation program, except that (1) all mandatory subjects of
 235 collective bargaining pertaining to modified or alternative duty shall
 236 continue to be governed by the provisions of chapter 68, and (2) the
 237 board shall administer and pay workers' compensation liabilities
 238 arising under chapter 568 for the state from the Workers'
 239 Compensation Fund.

240 (n) The program shall be exempt from corporation business tax, as
 241 defined in chapter 208.

242 Sec. 2. (*Effective July 1, 2009*) The sum of five million dollars shall be
 243 transferred from the Workers' Compensation Fund to the
 244 compensation insurance account established under subsection (l) of
 245 section 1 of this act, for the fiscal year ending June 30, 2009, for the
 246 administration and payment of workers' compensation claims arising
 247 under chapter 568 of the general statutes during the period of July 1,
 248 2009, to September 30, 2009, inclusive.

249 Sec. 3. (*Effective July 1, 2009*) The sum of _____ million dollars is
 250 appropriated to the Department of Administrative Services, from the
 251 General Fund, for the fiscal year ending June 30, 2010, for the Workers'
 252 Compensation Fund.

This act shall take effect as follows and shall amend the following sections:

| | | |
|-----------|---------------------|-------------|
| Section 1 | <i>from passage</i> | 31-284a |
| Sec. 2 | <i>July 1, 2009</i> | New section |
| Sec. 3 | <i>July 1, 2009</i> | New section |

Statement of Purpose:

To establish a state workers' compensation insurance program to provide workers' compensation insurance for the state and for private employers.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]